



Crl.O.P.(MD) No.17607 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.10.2023

CORAM:

THE HONOURABLE DR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.17607 of 2023
and Crl.M.P.(MD).No.13955 of 2023

Karuppasamy @ Vijayaganth

... Petitioner / Petitioner / Sole Accused

Vs.

State through,
Inspector of Police,
Vasudevanallur Police Station,
Tenkasi District.

In Crime No.127/2017

...Respondent / Respondent / Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and set aside the order passed by the Assistant Sessions Court, Sankarankovil, Tenkasi District in Crl. MP. No.68/2023 in S.C. No.715/2017 on 19.04.2023.

For Petitioner :Mr.M.Jothi Basu

For Respondent :Mr.M.Vaikkam Karunanithi
Government Advocate (crl.side)



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ORDER

This criminal original petition has been filed to set aside the order passed by the Assistant Sessions Court, Sankarankovil, Tenkasi District in Crl. MP. No. 68/2023 in S.C. No.715/2017 on 19.04.2023.

2.The learned counsel for the petitioner would submit that the petition has been filed by the petitioner seeking recall of PW1 for further cross examination. But the same was dismissed by the trial Court. He would further submit that the PW1 was already cross examined by the former counsel, but some facts have not been brought on record.

3.The learned Additional Public Prosecutor would submit that now the case is pending before the concerned Court for examination of Investigating Officer. Even without proper reasons for recalling the above said witness, that petition was filed before the trial Court. It is rightly dismissed by the trial Court.

4.Reading of the impugned order passed by the trial Court shows that some sort of lapses and laches on the part of the petitioner have been made. But,



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however, considering the nature of offence that is faced by the petitioner before the trial Court i.e., Section 307 of IPC, the PW1 is the injured witness and except PW1 no other material witnesses in the form of eye witnesses are available, this Court is of the view that one more opportunity may be given to the petitioner to recall PW1.

5.On that sole ground, the impugned order passed by the learned Assistant Sessions Judge, Sankarankovil, Tenkasi District, in Crl.M.P.No.68/2023 in S.C.No.715/2017, dated 19.04.2023, is hereby set aside and this criminal original petition is **allowed** with following stringent conditions.

1) The petitioner must deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) as cost to the witnesses PW1 to the credit of S.C.No.715 of 2017 before the trial Court, within a period of one week from the date of receipt of a copy of this order.

2) On such deposit, the trial Court is directed to recall the witness P.W.1 for cross examination by fixing a particular date. On that date, the petitioner must cross examine the witness without fail. If any failure is noticed, then the further right to cross



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Consequently, connected miscellaneous petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

03.10.2023

TM

To

- 1.The Assistant Sessions Judge, Sankarankovil, Tenkasi District.
- 2.The Inspector of Police,
Vasudevanallur Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVA. J.

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